



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 592-00

30 March 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his naval record be corrected to show that he transferred to the Retired Reserve vice being discharged.

2. The Board, consisting of Mr. Pfeiffer, Mr. Kastner and Mr. Zs Salman, reviewed Petitioner's allegations of error and injustice on 28 March 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Marine Corps Reserve on 5 December 1990 for two years in the grade of MGYSGT (E-9). The Reserve Retirement Master Control Card shows that at the end of his anniversary year on 5 February 1992, he was credited with 25 years of qualifying service for reserve retirement. Although he has not been credited with any further service, he apparently continued to drill until he transferred to the Individual Ready Reserve (IRR) on 30 June 1992. The fitness report for the period ending 30 June 1992 states that he attended 48 of 48 scheduled drills. There are no discharge entries in the record, however his two year enlistment would have expired on 4 December 1992.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended favorable action in similar cases when an individual is qualified for reserve retirement and there is no explanation in the record why an individual was discharged and not retired.

e. The Board is aware that the Uniform Retirement Date Act, 5 U.S.C 8301, requires that the effective day of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board is aware that Petitioner was in good standing in the Marine Corps Reserve and would have been retired if he had requested it or his request had been properly processed. Therefore, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the grade of MGYSGT. Given the requirements of the Uniform Retirement Date Act the Board further concludes that Petitioner should be transferred to the Retired Reserve effective 1 December 1992 vice being discharged on 4 December 1992 or any other date.

Finally the Board concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 1 December 1992 in the grade of MGYSGT vice being discharged on 4 December 1992 or any other date.

b. That this Report of Proceedings be filed in Petitioner's naval record.

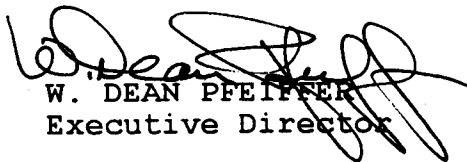
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director